

EXHIBIT 1

March 19, 2020 cease and desist letter
from Kerry S. Culpepper to Mike Leber,
Agent for Hurricane Electric



CULPEPPER IP, LLC

ATTORNEY AT LAW

75-170 HUALALAI ROAD, SUITE B204
KAILUA-KONA, HAWAII 96740

TEL: (808) 464-4047
FAX: (202) 204-5181

WWW.CULPEPPERIP.COM

PATENTS, TRADEMARKS & COPYRIGHTS

Via E-mail<copyright@he.net>

KERRY S. CULPEPPER *

* ADMITTED TO PRACTICE IN VIRGINIA, HAWAII
AND BEFORE THE USPTO

March 19, 2020

Via Certified Mail

Mike Leber, Agent for Hurricane Electric

Hurricane Electric LLC

760 Mission Court

Fremont, CA 94539

Re: Cease and Desist of Direct Copyright Infringement, Contributory Copyright Infringement at Hurricane Electric Subscriber IP addresses

My Reference and Case Number: 19-cv-169-LEK-KJM (District of Hawaii)

Dear Sir or Madam,

As explained below, I am writing to you regarding the Internet service Hurricane Electric ("HE") provides to its subscribers at IP addresses including but not limited to those discussed later in this letter ("subscribers"). My law firm represents the owners of the copyright protected motion pictures including but not limited to as shown below.

| NO. | OWNER | MOTION PICTURE | Copyright Certificate Number |
|-----|---------------------------------|-------------------------------|------------------------------|
| 1 | Millennium Funding, Inc. | <i>Mechanic: Resurrection</i> | PA1998057 |
| 2 | Bodyguard Productions, Inc. | <i>The Hitman's Bodyguard</i> | PAu3844508 |
| 3 | UN4 Productions, Inc. | <i>Boyka: Undisputed</i> | PA0002000772 |
| 4 | Hunter Killer Productions, Inc. | <i>Hunter Killer</i> | PA2136168 |
| 5 | LHF Productions, Inc. | <i>London Has Fallen</i> | PA1982831 |
| 6 | Rambo V Productions, Inc. | <i>Rambo V: Last Blood</i> | PA2202971 |

Page 2

| | | | |
|---|--------------------------|-------------------------|-----------|
| 7 | Fallen Productions, Inc. | <i>Angel Has Fallen</i> | PA2197434 |
| 8 | HB Productions, Inc. | <i>Hellboy</i> | PA2176664 |

On behalf of owners 1-5, my law firm filed a lawsuit here in Hawaii (1:19-cv-169) against operators of movie piracy websites under the name “YTS” for copyright infringement, contributory copyright infringement and intentional inducement.

We have determined that your subscribers have repeatedly infringed the copyright in my clients’ motion pictures via the YTS websites, among other means.

Prior Notices sent to HE by My Firm

I sent first and second infringement notices per the Digital Millennium Copyright Action (“DMCA”) to your agent on July 10, 2019 and July 12, 2019. (*See* Exhibits 1-2). The first notice concerned observed infringement of the motion picture *Hunter Killer* at the IP address 65.19.167.130 at timestamp 2018-10-19 09:16:51. The second DMCA notice concerned infringements of various motion pictures of my clients at the following dates and IP addresses:

| No. | IP address | Hit Date |
|-----|-----------------------------------|-------------------------------|
| 1 | 2001:470:b07e:0:d83a:a3ff:fe5e:ca | 2018-09-19 12:27:05.71563+00 |
| 2 | 216.218.222.14 | 2018-08-24 14:34:20.29611+00 |
| 3 | 216.218.222.12 | 2018-03-06 18:11:31.503688+00 |
| 4 | 65.19.167.130 | 2018-02-16 17:55:55.294389+00 |
| 5 | 216.218.222.14 | 2018-02-16 13:19:46.327169+00 |

Thousands of infringements of my clients’ motion pictures have occurred at the above IP addresses.

Prior Notices sent to HE by Owners’ Agent

My clients’ agent has sent over 290 infringement notices to HE regarding 136 IP addresses at copyright@he.net requesting that HE take action. One such exemplary notice is attached to this letter as Exhibit “3”. It does not appear that HE terminated the subscriber’s account (IP address 74.82.60.174) or took any meaningful action in response to these notices. In fact, infringement continues to occur at the ‘174 IP address as recently as 3/18/2020. Examples of the numbers of notices sent for certain IP addresses is shown below.

| IP | Notices Sent |
|-----------------|--------------|
| 184.105.255.230 | 11 |
| 74.82.60.174 | 7 |
| 74.82.60.175 | 6 |

Page 3

| | |
|--------------|---|
| 72.52.87.188 | 6 |
| 74.82.60.74 | 5 |
| 72.52.87.94 | 5 |
| 74.82.60.91 | 5 |
| 72.52.87.78 | 5 |
| 72.52.87.91 | 4 |
| 74.82.60.191 | 4 |

The DMCA provides a safe harbor for qualified services providers from liability from copyright infringement. However, a requirement for safe harbor is that the service provider adopt and reasonably implement, and inform subscribers and account holders of the service provider's system or network of, a policy that provides for the *termination* in appropriate circumstances of subscribers and account holders of the service provider's system or network who are repeat infringers. *See* 17 USC 512(i)(1)(A). HE fails to qualify for a safe harbor because HE has not terminated the subscriber account despite the multiple notifications sent by my clients' agent.

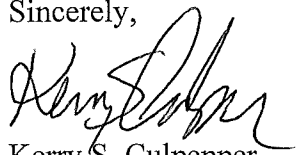
Accordingly, my clients and I believe that HE is liable for these infringements of my clients' copyrights in violation of federal law under the Copyright Act, 17 USC §501. Remedies available to my clients include: An injunction against further infringement; Actual and statutory damages of up to \$150,000/motion picture; and costs and attorney's fees.

Nonetheless, my clients would like to resolve this issue outside of litigation if possible. To do so, we request that: (1) HE agrees to immediately terminate all Internet service to the subscribers at the above IP addresses; (2) HE agrees to take the appropriate action to terminate subscriber accounts in response to all further copyright notifications received from my clients' agent; and (3) pay a portion of my clients' damages.

I look forward to receiving your affirmative response that you desire to fully comply with the above-stated requests by May 15, 2020 so that we can discuss this issue further. My clients would like to resolve this matter amicably but will consider any and all legal action necessary to protect their valuable intellectual property rights under federal and state law.

This letter is written without prejudice to the rights and remedies of our client, all of which are expressly reserved.

Sincerely,



Kerry S. Culpepper

kculpepper@culpepperip.com

Attachment: Exhibits 1-3



CULPEPPER IP, LLLC

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KERRY S. CULPEPPER *

* ADMITTED TO PRACTICE IN VIRGINIA, HAWAII
AND BEFORE THE USPTO

SPECIALIZING IN PATENTS, TRADEMARKS & COPYRIGHTS

July 10, 2019

**VIA EMAIL < COPYRIGHT@HE.NET > AND FIRST
CLASS MAIL**

Copyright Agent, Hurricane Electric Internet Services
Attn: Copyright Compliance
Hurricane Electric Internet Services
760 Mission Court
Fremont, CA 94539

Re: Copyright Claim of allegation of contributory copyright infringement on
websites registered or affiliated with Hurricane Electric

Dear Sirs:

An electronic signature of the copyright owner, or a person authorized to act on behalf of
the owner, of an exclusive copyright that has allegedly been infringed.

Kerry S. Culpepper authorized to act on behalf of owner Hunter Killer Productions, Inc.
/Kerry S. Culpepper/

State your contact information, including your TRUE NAME, street address, telephone
number, and email address.

Kerry S. Culpepper, Esq.
Culpepper IP, LLLC
75-170 Hualalai Road
Suite B204
Kailua-Kona, Hawaii 96740
US Tel 1-808-464-4047
kculpepper@culpepperip.com

Identification of the copyrighted work claimed to have been infringed, or, if multiple
copyrighted works at a single online site are covered by a single notification, a representative
list of such works on that site.

Exhibit "1"

Page 2

Infringement of the motion picture Hunter Killer is/was induced by (1) the content (promotional language of YTS); and/or (2) the link to download the torrent file of the motion pictures at the websites:

YTS.AM

Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit Hurricane Electric to locate the material.

(1) the content (promotional language of YTS); and/or (2) the link to download the motion picture at the websites:

YTS.AM

65.19.167.130 2018-10-19 09:16:51

Information reasonably sufficient to permit Hurricane Electric to contact the Complaining Party, such as an address, telephone number, and, if available, an electronic mail address at which the Complaining Party may be contacted.

Kerry S. Culpepper, Esq.

Culpepper IP, LLC

75-170 Hualalai Road

Suite B204

Kailua-Kona, Hawaii 96740

US Tel 1-808-464-4047

A statement that the Complaining Party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.

I, have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.

A statement that the information in the notification is accurate, and under penalty of perjury, that the Complaining Party is the owner, or is authorized to act on behalf of the owner, of an exclusive right that is allegedly infringed.

Page 3

The information in the notification is accurate, and under penalty of perjury, I am authorized to act on behalf of the owner, Hunter Killer Productions, Inc. of an exclusive right that is allegedly infringed.

Sincerely,

/ksc/ 

Kerry S. Culpepper



CULPEPPER IP, LLLC

ATTORNEY AT LAW

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KERRY S. CULPEPPER *

* ADMITTED TO PRACTICE IN VIRGINIA, HAWAII
AND BEFORE THE USPTO

SPECIALIZING IN PATENTS, TRADEMARKS & COPYRIGHTS

July 12, 2019

VIA FIRST CLASS MAIL

Copyright Agent, Hurricane Electric Internet Services
Attn: Copyright Compliance
Hurricane Electric Internet Services
760 Mission Court
Fremont, CA 94539

Re: Copyright Claim of allegation of contributory copyright infringement on
websites registered or affiliated with Hurricane Electric

Dear Sirs:

An electronic signature of the copyright owner, or a person authorized to act on behalf of the owner, of an exclusive copyright that has allegedly been infringed.

Kerry S. Culpepper authorized to act on behalf of owner Hunter Killer Productions, Inc.
/Kerry S. Culpepper/

State your contact information, including your TRUE NAME, street address, telephone number, and email address.

Kerry S. Culpepper, Esq.
Culpepper IP, LLLC
75-170 Hualalai Road
Suite B204
Kailua-Kona, Hawaii 96740
US Tel 1-808-464-4047
kculpepper@culpepperip.com

Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works on that site.

Exhibit "2"

Page 2

Infringement of the motion picture Hunter Killer is/was induced by (1) the content (promotional language of YTS); and/or (2) the link to download the torrent file of the motion pictures at the websites YTS.AM, YTS.AG and YTS.GG hosted and/or supported at following IP addresses at following times:

| No. | IP address | Hit Date | Infringing Website |
|-----|-----------------------------------|----------------------------------|--------------------|
| 1 | 2001:470:b07e:0:d83a:a3ff:fe5e:ca | 2018-09-19 12:27:05.71563+00 | yts.ag |
| 2 | 216.218.222.14 | 2018-08-24 14:34:20.29611+00 | yts.am |
| 3 | 216.218.222.12 | 2018-03-06 18:11:31.503688+00 | yts.gg |
| 4 | 65.19.167.130 | 2018-02-16 17:55:55.294389+00 | yts.gg |
| 5 | 216.218.222.14 | 2018-02-16 13:19:46.327169+00 | yts.gg |

Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit Hurricane Electric to locate the material.

(1) the content (promotional language of YTS); and/or (2) the link to download the motion picture at the websites:

YTS.AM, YTS.AG and YTS.GG

Information reasonably sufficient to permit Hurricane Electric to contact the Complaining Party, such as an address, telephone number, and, if available, an electronic mail address at which the Complaining Party may be contacted.

Kerry S. Culpepper, Esq.
Culpepper IP, LLLC
75-170 Hualalai Road
Suite B204
Kailua-Kona, Hawaii 96740
US Tel 1-808-464-4047

A statement that the Complaining Party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.

Page 3

I, have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.

A statement that the information in the notification is accurate, and under penalty of perjury, that the Complaining Party is the owner, or is authorized to act on behalf of the owner, of an exclusive right that is allegedly infringed.

The information in the notification is accurate, and under penalty of perjury, I am authorized to act on behalf of the owner, Hunter Killer Productions, Inc. of an exclusive right that is allegedly infringed.

Sincerely,

/ksc/

Kerry S. Culpepper

From: notice@notices.copyrightmanagementservicesltd.com
To: copyright@he.net
Cc: cck@notices.copyrightmanagementservicesltd.com
Subject: Notice of Claimed Infringement [Case No. 40559578682]
Date: Friday, March 6, 2020 12:36:30 AM

-----BEGIN PGP SIGNED MESSAGE-----

Hash: SHA256

Notice of Claimed Infringement

Notice ID: 40559578682

Notice Date: 2020-03-06 10:36:30

Dear Sir or Madam:

This message is sent on behalf of Fallen Productions, Inc..

Under penalty of perjury, I assert that Copyright Management Services, Ltd. (CMS) is authorized to act on behalf of the owner of the exclusive copyrights that are alleged to be infringed herein.

Fallen Productions, Inc. owns the copyrights to the movie Angel Has Fallen. The unauthorized download and distribution of this file by your IP address constitutes copyright infringement.

Please see below details for the infringements:

Protocol: BITTORRENT

Infringed Work: Angel Has Fallen

Infringing FileName: Angel.Has.Fallen.2019.WEB-DL.x264-FGT

Infringing FileSize: 1236049106

Infringer's IP Address: 74.82.60.174

Infringer's Port: 54527

Initial Infringement Timestamp: 2020-02-08 16:00:25

And, you're also creating a security risk on your computers, devices and networks when you download unauthorized movies or allow others to do so from your Internet connection.

We respectfully ask that you stop infringing and redistributing Fallen Productions, Inc. copyright protected content, and take the proper steps to secure your Internet so that others do not infringe and redistribute our content as well.

We have a good faith belief that use of the copyrighted material detailed above is not authorized by the copyright owner, its agent, or the law. In addition, we have a good faith subjective belief that the use does not constitute fair use. The information in this notice is accurate and we state, under penalty of perjury, that we are authorized to act on behalf of the owner of the copyright that is allegedly infringed. This letter is not a complete statement of Fallen Productions, Inc.'s rights in connection with this matter, and nothing contained herein constitutes an express or implied waiver of any rights or remedies of Fallen Productions, Inc. in connection with this matter, all of which are expressly reserved.

We appreciate your assistance and thank you for your cooperation in this matter.

Respectfully,

Catherine Hyde

Copyright Management Services Ltd.
 notice@notices.copyrightmanagementservicesltd.com
 Address:
 43 Berkeley Square
 London W1J 5AP
 United Kingdom

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    <Email>notice@notices.copyrightmanagementservicesltd.com</Email>
  </Complainant>
  <Service_Provider>
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    <Address>907-651 Nootka Way, Port Moody, BC V3H 0A1, CA</Address>
    <Phone>+1-604-724-9612</Phone>
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=elxY

-----END PGP SIGNATURE-----